

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

AIKEN DIVISION

Edward Hall,)	
)	C/A No. 1:08-3883-MBS
Plaintiff,)	
)	
vs.)	
)	
)	ORDER
Farmers Home Furniture; Evan Carpenter,)	
Store Mgr.; Linda Bass, Sales Rep.;)	
William Spell, Sales Rep.; Giesela)	
Sirrenber, Sales Rep.; Pattie Rogers,)	
Finance Mgr.; Frances Kitchen, Customer)	
Service; Warehouse Home Furnishings;)	
Jennifer Bennett,)	
)	
Defendants.)	
)	

Plaintiff Edward Hall, appearing pro se and in forma pauperis, brings this action against his former employer, Farmers Home Furniture, and a number of co-employees, alleging that he was terminated for illegal reasons.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On March 13, 2009, Defendants Farmers Home Furniture, Evan Carpenter, William Spell, Giesela Sirrenber, Frances Kitchen, and Warehouse Home Furnishes filed motions to strike and for more a definite statement. On June 3, 2009, Defendants Jennifer Bennett, Linda Bass, and Pattie Rogers filed motions to strike and for a more definite statement. The Magistrate Judge issued an order on March 12, 2010, granting Defendants motions and granting Plaintiff until April 9, 2010 to amend his complaint. The court affirmed the Magistrate Judge's order on July 2, 2010, and granted Plaintiff until July 16, 2010

to file an amended complaint. Plaintiff elected not to do so.

This matter is before the court on Defendants' motion to dismiss filed July 22, 2010. Defendants contend that the within action should be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b) based on Plaintiff's failure to comply with the court's July 2, 2010 order and for failure to prosecute. (ECF No. 42). By order filed July 23, 2010, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the dismissal procedures and the possible consequences if he failed to respond adequately. Plaintiff filed a response in opposition to the motion to dismiss on August 24, 2010, to which Defendants filed a reply on August 26, 2010.

On September 7, 2010, the Magistrate Judge Issued a Report and Recommendation. The Magistrate Judge noted that it is solely through Plaintiff's neglect, and not that of an attorney, that no amended complaint has been filed despite two opportunities provided by the court. The Magistrate Judge further noted that Defendants are substantially prejudiced because they are unable to formulate a proper response to the original complaint. Accordingly, the Magistrate Judge recommended that Defendants' motion to dismiss be granted.. Plaintiff filed objections to Report and Recommendation on September 23, 2010, to which Defendants filed a reply on September 27, 2010.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28

U.S.C. § 636(b)(1).

In his objections, Plaintiff essentially reiterates the allegations of his complaint and asserts that he “Powerfully, Strongly, Totally, and WholeHeartedly, Object[s] and Disagrees[s]” with the motion to dismiss and the Magistrate Judge’s decision. The district court need not conduct a de novo review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge’s proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

The court has thoroughly examined the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants’ motion to dismiss pursuant to Rule 41(b) is granted, and the case dismissed, with prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

February 2, 2011

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.